

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EXCELSIOR INSURANCE COMPANY	:	CIVIL ACTION
	:	NO. 09-3198
v.	:	
	:	
INCREDIBLY EDIBLE DELITES,	:	
INCREDIBLE FRANCHISE CORP. and	:	
EDIBLE ARRANGEMENTS	:	
INTERNATIONAL, INC.	:	

ORDER

AND NOW, this 17th day of December 2009, upon consideration of Excelsior Insurance Company's motion to dismiss Incredibly Edible Delites' ("IED") and Incredible Franchise Corp.'s ("IFC") third, fourth and fifth counterclaims or in the alternative to bifurcate, IED and IFC's response, Excelsior's reply and IED and IFC's sur-reply it is hereby ORDERED that plaintiff's motion to dismiss is GRANTED in part and DENIED in part and the fourth counterclaim is dismissed. It is further ORDERED that plaintiff's alternative motion to bifurcate a portion of IFC and IED's claims is DENIED. Within fourteen (14) days from the date of this Order, IFC and IED may amend their counterclaim in accordance with this Order and the accompanying memorandum.

/s/ Thomas N. O'Neill, Jr.  
THOMAS N. O'NEILL, JR., J.